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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/915,838

07/26/2001

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AUS920010497US1

7170

7590

11/03/2006

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EXAMINER

VAN BRAMER, JOHN W

ART UNIT

PAPER NUMBER

3622

DATE MAILED: 11/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	09/915,838		JANAKIRAMAN ET AL.	
	<b>Examiner</b>		<b>Art Unit</b>	
	John Van Bramer		3622	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 18 August 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

**DETAILED ACTION**

***Response to Amendment***

1. The amendment filed on August 18, 2006 cancelled no claims. No new claims were added and Claims 1-3, 11-13 and 21-23 were amended. Thus the currently pending claims remain Claims 1- 29.

***Claim Rejections - 35 USC § 112***

2. The amendment filed on August 18, 2006 failed to correct the second paragraph of 35 U.S.C. 112 deficiencies identified in the Office Action dated May 18, 2006. Therefore, the rejection is maintained. The disclosed data object selector and composite advertisement object render merely disclose what there intended functions are and do not disclose that they are operable together. The examiner suggests removing the term "for" used throughout the claim and rewrite the claims to indicate the actual interactions between the various components that occur within the claimed system.

***Claim Rejections - 35 USC § 101***

3. The amendment filed on August 18, 2006 failed to correct the 35 U.S.C. 101 deficiencies identified in the Office Action dated May 18, 2006. Therefore, the rejection is maintained. The claimed components do not function to produce a tangible output because they are not claimed as functioning together. Instead, the claim merely discloses that the various components are intended to function

together. The claims do not require that any functionality is present just that the capability of functioning once the components are assembled is claimed. The examiner suggests removing the term "for" used throughout the claim and rewrite the claims to indicate the actual interactions between the various components that occur within the claimed system. For a more precise example please refer to the Office Action dated May 18, 2006.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1 – 29 are rejected under 35 U.S.C. 102(e) as being anticipated by Kramer et al. (U.S. Patent Number: 6,327,574).

Claim 1. Kramer discloses a method for dynamically generating targeted electronic advertisements comprising the steps of:

- a. Providing two or more data object repositories, said data object repositories containing a plurality of data objects indexed to target audience

- characteristics, at least one of said repositories containing depictions of a plurality of human models indexed by demographic characteristics of the human models. (Fig 3b, Col 6, line 60 to Col 7, line 44; and Col 18, lines 38 – 42)
- b. Selecting two or more data objects from said data object repositories based upon a given set of instant user characteristics, at least one of said data objects comprising a depiction of a human model having matching demographic characteristics (Fig 3b, Fig 18, Col 6, line 60 to Col 7, line 44; and Col 18, lines 38 – 42)
- c. Producing a composite advertisement object by combining said selected data objects to render a single advertisement data object. (Fig 3b, Col 6, line 60 to Col 7, line 44; and Col 18, lines 38 – 42)
- d. Providing for consumption said composite advertisement object to said instant user. (Fig 3b, Col 6, line 60 to Col 7, line 44; and Col 18, lines 38 – 42)

Claim 2. Kramer discloses the method as set forth in claim 1 wherein said step of selecting further comprises pseudo-randomly selecting a data objects. (Col 3, lines 10 – 33; Col 21, lines 20 – 31; and Col 21, lines 51 – 61) (Pseudo-randomness is an inherent quality of targeted marketing because demographics and psychographics are unique for each individual)

Claim 3. Kramer discloses the method as set forth in claim 1 wherein said human

model depictions comprise depictions selected from the group of a still graphic image repository, a video clip repository, and an audio clip repository. (Fig 18, Col 6, lines 22 – 46)

Claim 4. Kramer discloses the method as set forth in claim 1 wherein said step of providing two or more data object repositories comprises providing an advertising message repository. (Col 7, lines 16 – 44; and Col 11, lines 55 – 67)

Claim 5. Kramer discloses the method as set forth in claim 4 wherein said step of providing an advertising message repository is selected from the group consisting of providing a still graphic image repository, providing a video clip repository, providing a web page repository, and providing an audio clip repository. (Col 6, lines 22 – 46)

Claim 6. Kramer discloses the method as set forth in claim 1 wherein said step of selecting two or more data objects from said data object repositories based upon a given set of instant user characteristics comprises selecting data objects based upon instant user demographic factors. (Col 14, lines 11 – 34)

Claim 7. Kramer discloses the method as set forth in claim 1 wherein said step of selecting two or more data objects from said data object repositories based upon a given set of instant user characteristics comprises selecting data objects based

upon historical advertising effectiveness trend data. (Col 14, lines 11 – 34)

Claim 8. Kramer discloses the method as set forth in claim 1 wherein said step of producing a composite advertisement object is selected from the group consisting of overlaying one still graphic image data object over another, merging a video clip with an audio clip, and merging a plurality of video clips. (Col 6, lines 22 – 46)

Claim 9. Kramer discloses the method as set forth in claim 1 wherein said step of providing for consumption a composite advertisement object to an instant user is selected from the group consisting of transmitting said composite advertisement object over a computer network, displaying said composite advertisement, and playing said composite advertisement. (Col 8, lines 41 – 54)

Claim 10. Kramer discloses the method as set forth in claim 7 further comprising a step of updating said historical advertising effectiveness trend data according to subsequent instant user selection of options related to said composite advertisement object. (Col 14, lines 35 – 51)

Claim 11. Kramer discloses a computer readable medium encoded with software for dynamically generating targeted electronic advertisements comprising, said software when executed causing a computer to perform the steps of:

- a. Provide two or more data object repositories, said data object repositories containing a plurality of data objects indexed to target audience characteristics, at least one of said repositories containing depictions of a plurality of human models indexed by demographic characteristics of the human models. (Fig 3b, Fig 18, Col 6, line 60 to Col 7, line 44; and Col 18, lines 38 – 42)
- b. Select two or more data objects from said data object repositories based upon a given set of instant user characteristics, at least one of said data objects comprising a depiction of a human model having matching demographic characteristics. (Fig 3b, Fig 18, Col 6, line 60 to Col 7, line 44; and Col 18, lines 38 – 42)
- c. Produce a composite advertisement object by combining said selected data objects to render a single advertisement data object. (Fig 3b, Col 6, line 60 to Col 7, line 44; and Col 18, lines 38 – 42)
- d. Provide for consumption said composite advertisement object to said instant user. (Fig 3b, Col 6, line 60 to Col 7, line 44; and Col 18, lines 38 – 42)

Claim 12. Kramer discloses the computer readable medium as set forth in claim 11 wherein said software for selecting further comprises pseudo-randomly selecting a data object. (Col 3, lines 10 – 33; Col 21, lines 20 – 31; and Col 21, lines 51 – 61) (Pseudo-randomness is an inherent quality of targeted marketing because demographics and psychographics are unique for each individual)



Claim 13. Kramer discloses the computer readable medium as set forth in claim 11 wherein said software for providing a human model repository is adapted to provide repository objects selected from the group consisting of a graphic image, a video clip, and an audio clip. (Col 6, lines 22 – 46)

Claim 14. Kramer discloses the computer readable medium as set forth in claim 11 wherein said software for providing two or more data object repositories comprises providing an advertising message repository. (Col 7, lines 16 – 44; and Col 11, lines 55 – 67)

Claim 15. Kramer discloses the computer readable medium as set forth in claim 14 wherein said software for providing an advertising message repository is adapted to provide repository objects selected from the group consisting of a still graphic image, a video clip, a web page, and an audio clip. (Col 6, lines 22 – 46)

Claim 16. Kramer discloses the computer readable medium as set forth in claim 11 wherein said software for selecting two or more data objects comprises software for selecting data objects based upon instant user demographic factors. (Col 14, lines 11 – 34)

Claim 17. Kramer discloses the computer readable medium as set forth in claim

11 wherein said software for selecting two or more data objects comprises software for selecting data objects based upon historical advertising effectiveness trend data. (Col 14, lines 11 – 34)

Claim 18. Kramer discloses the computer readable medium as set forth in claim 11 wherein said software for producing a composite advertisement object is adapted to perform a composite advertisement selected from the group consisting of a still graphic image overlaid on another still graphic image, a video clip merged with an audio clip, and a plurality of video clips merged together. (Col 6, lines 22 – 46)

Claim 19. Kramer discloses the computer readable medium as set forth in claim 11 wherein said software for providing for consumption a composite advertisement object to an instant user is adapted to use a method selected from the group consisting of transmitting said composite advertisement object over a computer network, displaying said composite advertisement, and playing said composite advertisement. (Col 8, lines 41 – 54)

Claim 20. Kramer discloses the computer readable medium as set forth in claim 17 further comprising software for updating said historical advertising effectiveness trend data according to subsequent instant user selection of options related to said composite advertisement object. (Col 14, lines 35 – 51)

Claim 21. Kramer discloses a system for dynamically generating targeted electronic advertisements comprising:

- a. Two or more data object repositories, said data object repositories containing a plurality of data objects indexed to target audience characteristics, at least one of said repositories containing depictions of a plurality of human models indexed by demographic characteristics of the human models. (Fig 3b, Fig 18, Col 6, line 60 to Col 7, line 44; and Col 18, lines 38 – 42)
- b. A data object selector for selecting two or more data objects from said data object repositories based upon a given set of instant user characteristics, at least one of said data objects comprising a depiction of a human model having matching demographic characteristics. (Fig 3b, Fig 18, Col 6, line 60 to Col 7, line 44; and Col 18, lines 38 – 42)
- c. A composite advertisement object renderer for combining said selected data objects to render a single advertisement data object. (Fig 3b, Col 6, line 60 to Col 7, line 44; and Col 18, lines 38 – 42)
- d. A rendered composite advertisement object provided for consumption to a to said instant user. (Fig 3b, Col 6, line 60 to Col 7, line 44; and Col 18, lines 38 – 42)

Claim 22. Kramer discloses the system as set forth in claim 21 wherein said software for selecting further comprises pseudo-randomly selecting a data object.

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(Col 3, lines 10 – 33; Col 21, lines 20 – 31; and Col 21, lines 51 – 61) (Pseudo-randomness is an inherent quality of targeted marketing because demographics and psychographics are unique for each individual)

Claim 23. Kramer discloses the system as set forth in claim 22 wherein said human model repository includes a data object selected from the group consisting of still graphic images, video clips, and audio clips. (Col 6, lines 22 – 46)

Claim 24. Kramer discloses the system as set forth in claim 21 wherein said data object repositories comprise an advertising message repository. (Col 7, lines 16 – 44; and Col 11, lines 55 – 67)

Claim 25. Kramer discloses the system as set forth in claim 24 wherein said advertising message repository includes a data object selected from the group consisting of still graphic images, video clips, web pages, and audio clips. (Col 6, lines 22 – 46)

Claim 26. Kramer discloses the system as set forth in claim 21 wherein said data objects selector is adapted to select data objects from said data object repositories based upon instant user demographic factors. (Col 14, lines 11 – 34)

Claim 27. Kramer discloses the system as set forth in claim 21 wherein said data objects selector is adapted to select data objects based upon historical advertising effectiveness trend data. (Col 14, lines 11 – 34)

Claim 28. Kramer discloses the system as set forth in claim 21 wherein said composite advertisement object renderer is adapted to produce a composite advertisement object selected from the group consisting of two overlaid still graphic images, a merged video clip and audio clip, and a merged plurality of video clips. (Col 6, lines 22 – 46)

Claim 29. Kramer discloses the system as set forth in claim 21 further comprising a historical data updater for updating said historical advertising effectiveness trend data according to subsequent instant user selection of options related to said composite advertisement object. (Col 14, lines 35 – 51)

### ***Response to Arguments***

6. Applicant's arguments filed August 18, 2006 have been fully considered but they are not persuasive.
  - a. The applicants arguments regarding the 35 USC 112 and 35 USC 101 rejections are addressed in the Office Action above.
  - b. The applicant argues that the definition of "human model" is defined by the specification to be: "A human person acting as a spokesperson or

representative of a product or service". The examiner is unable to find such a limiting definition specifically presented in the specification. Regardless, the applicants assertion that Kramer is silent with regard to the use of human models is incorrect since there is a human model depicted in Fig. 18. The cover of the Animorphs, The Solution book depicts a human model's transmutation into a mouse. Since this book cover was displayed based upon the consumer profile used by Kramer, the use of human models is taught by Kramer.

### ***Conclusion***

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

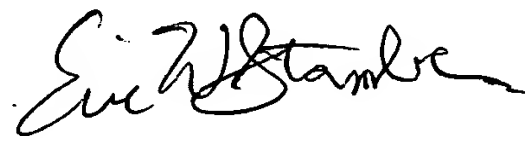
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8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Van Bramer whose telephone number is (571) 272-8198. The examiner can normally be reached on 6am - 4pm Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached on (571) 272-6724. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
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